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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/759,215	01/16/2001	Thomas W. Krause		1823

35197 7590 06/06/2006

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ART UNIT	PAPER NUMBER
2162	

DATE MAILED: 06/06/2006

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/759,215
Filing Date: January 16, 2001
Appellant(s): KRAUSE, PHILIP R.

Krause, Philip R.
Appellant Pro Se

EXAMINER'S ANSWER

This is in response to the appeal brief filed March 6, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

NETG, "Since you were born", Saint Louis Zoological Park (April 13, 1988), pages 1 - 14.

Tom Ruane, "half-Life", Southern Review (PSRV), v32 n1 (1996), pages 1 - 6.

6,069,848	McDonald et al	5-2000
5,031,161	Kendrick	6-1991
5,983,200	Slotznick	11-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

Claims 1 – 6, 14, 15, 18, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Non Patent Literature "Since you were born", published by Saint Louis Zoological park on April 13, 1988, displayed at http://www.whealth.org/exhibit/control/sinceborn/sinceborn.cgi and created by NETG (hereinafter "NETG") in view of Non Patent Literature "Half-life", published by Tom Ruane (hereinafter "Ruane").

Regarding claim 1, NETG teaches a computer-implemented method for providing a user with age-event information comprising:

a) receiving an input signal (see page 9: the input signal is the birthdate entered. In this case the birthdate entered is "August 30, 1955");

b) determining age information from said input signal (see page 10: the age information determined is "Your birthdate is Tue 30-Aug-1955");

c) using said age information to search a database for age-event information corresponding to said age information (see page 10: the age information entered is "August 30, 1955", and as shown on page 10, paragraph 3, this age information "1955" was used to searched the database in other to determine that "Average life expectancy at birth has increased for females. In 1955, it was 72.8 years. In 1955, it had increased to . . . . . In 1955, it had increased to 72.8 years"); and

d) providing an output signal comprising age-event information corresponding to said age information (see page 10: output signal comprising age-event information corresponding to said age information is the age calculated in days from the birth-date entered "You have be alive for 18117 days").

wherein said age information comprises the age of a first individual on a specific date (see page 10, paragraphs 1and 2: "Your birthday is Tue 30-Aug-1955"; "You have be alive for 18117 days").

NETG does not explicitly teach said age-event information comprises information regarding an event that occurred in the life of a second individual when said second

individual was at an age equal to the age of said first individual on said specific data as claimed.

However, Ruane teaches said age-event information comprises information regarding an event that occurred in the life of a second individual when said second individual was at an age equal to the age of said first individual on said specific data (see page 5, paragraph 6: "I send you your own calendar. On each day there's some notable achievement done by a person who was exactly as old as you are on that day. For example tomorrow I'll be the same age Jack Kerouac was the day on the Road was first published").

It would have been obvious to one of ordinary skill in the data processing art at the time of the present invention to combine teaching of the cited references because Ruane's teaching of "an event that occurred in the life of a second individual when said second individual was at an age equal to the age of said first individual on said specific date" would have allowed NETG's system to provide a personalized calendar showing notable achievement done by a person at your age on specific period. The motivation is that the calendars produced with the right equipment and business strategy could make a future as suggested by Ruane at page 5, paragraph 7.

Regarding claims 2, 15 and 22, NETG teaches wherein the input signal comprises a date (see page 9: the date of the input signal "August 30, 1955"), and

Ruane teaches the output signal comprises a celebrity ageliner, wherein said celebrity ageliner names a celebrity and describes a historical event in the life of an

individual that occurred when said individual was the age of said celebrity on said date (see page 5, paragraph 6: "I send you your own calendar. On each day there's some notable achievement done by a person who was exactly as old as you are on that day. For example tomorrow I'll be the same age Jack Kerouac was the day on the Road was first published").

It would have been obvious to one of ordinary skill in the data processing art at the time of the present invention to combine teaching of the cited references because Ruane's teaching of "an event that occurred in the life of a second individual when said second individual was at an age equal to the age of said first individual on said specific date" would have allowed NETG's system to provide a personalized calendar showing notable achievement done by a person at your age on specific period. The motivation is that the calendars produced with the right equipment and business strategy could make a future as suggested by Ruane at page 5, paragraph 7.

Regarding claim 3, NETG teaches the input signal comprises age information relating to a target individual, and the output signal comprises age-event information customized for said first individual, and the output signal includes a reference to said first individual (see Pages 9 and 10).

Regarding claim 4, NETG teaches wherein the output signal further comprises a date (see page 10).

Regarding claim 5, NETG teaches the input signal comprises a birthdate (see page 9).

Regarding claim 6, NETG teaches said input signal represent an age (see page 10).

Regarding claims 14 and 18, NETG teaches a computer system for providing age-event information, comprising:

computer processor means for processing data (see page 2, section 1, A, 9);

storage means for storing data on a storage medium (see page 2, section 1, A, 9)

means for receiving input (see page 9);

means for determining age information from said input (see page 2, section 1, A, 9 and page 10); and

means, responsive to said age-determining means, for outputting age-event information to a user (see page 2, section 1, A, 9 and page 10);

wherein said age information comprises the age of a first individual on a specific date (see page 10, paragraphs 1and 2: "Your birthday is Tue 30-Aug-1955"; "You have be alive for 18117 days").

NETG does not explicitly teach said age-event information comprises information regarding an event that occurred in the life of a second individual when said second

individual was at an age equal to the age of said first individual on said specific data as claimed.

However, Ruane teaches said age-event information comprises information regarding an event that occurred in the life of a second individual when said second individual was at an age equal to the age of said first individual on said specific data (see page 5, paragraph 6: "I send you your own calendar. On each day there's some notable achievement done by a person who was exactly as old as you are on that day. For example tomorrow I'll be the same age Jack Kerouac was the day on the Road was first published").

It would have been obvious to one of ordinary skill in the data processing art at the time of the present invention to combine teaching of the cited references because Ruane's teaching of "an event that occurred in the life of a second individual when said second individual was at an age equal to the age of said first individual on said specific date" would have allowed NETG's system to provide a personalized calendar showing notable achievement done by a person at your age on specific period. The motivation is that the calendars produced with the right equipment and business strategy could make a future as suggested by Ruane at page 5, paragraph 7.

Regarding claim 21, Ruane teaches the computer-implemented method (see page 5, paragraph 9) for providing a user with age-event information of claim 1, wherein the age information received in step a) is related to the age of a first individual (see page 5, paragraph 6: "I send you your own calendar. On each day there's some notable

achievement done by a person who was exactly as old as you are on that day. For example tomorrow I'll be the same age Jack Kerouac was the day on the Road was first published") and said method further comprises:

input signal comprising the name of second individual (see page 5: Jack Kerouac Park is the name of second individual that can be linked to a first individual).

Claims 8, 12, 16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over NETG in view Ruane and further in view of USPN 6,069,848 issued to Thomas B. McDonald et al (hereinafter "McDonald").

Regarding claims 8, 16 and 19, NETG or Ruane do not explicitly teach generating a customized greeting for said first individual.

However, McDonald teaches the step of generating a customized greeting for said first individual, said greeting comprising age-event information (see column 8, lines 46 – 54).

It would have been obvious to one of ordinary skill in the data processing art at the time of the present invention to combine teaching of the cited references because McDonald's teaching of "generating a customized greeting for said first individual, said greeting comprising age-event information" would have allowed NETG and Ruane's system to provide a timepiece for measuring the elapsed time from a personal life time event, wherein the timepiece can be implemented in a wide variety of embodiments

including a watch, clock, personal organizer, computer screen saver and family tree as suggested by McDonald at column 2, lines 20 - 26.

Regarding claim 12, McDonald teaches the step of generating a life-chart for said first individual, wherein said life-chart comprises age-event information for at least two dates in the life of said first individual (see Fig.11 and column 9, lines 3 – 5).

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over NETG in view of Ruane and further in view of USPN 5,031,161 issued to David Kendrick (hereinafter "Kendrick").

Regarding claim 13, NETG or Ruane do not explicitly teach the steps of generating a life-clock display for said first individual, wherein said life-clock display comprises a symbolic representation of the amount of life an individual has lived and the amount of life said first individual is expected to live before dying; and providing age-event information on said life-clock.

Kendrick teaches the steps of generating a life-clock display for said first individual, wherein said life-clock display comprises a symbolic representation of the amount of life an individual has lived and the amount of life said first individual is expected to live before dying (see Figs. 1 and 2; column 1, line 60 – column 2, line 4 and columns 4 – 6); and

providing age-event information on said life-clock (see fig.2).

It would have been obvious to one of ordinary skill in the data processing art at the time of the present invention to combine teaching of the cited references because Kendrick's teaching of "providing age-event information on said life-clock" would have allowed NETG and Ruane's system to provide timepieces such as wrist watches and clocks and, more particularly, to a timepiece that displays the number of minutes, days and years remaining in a person's life based on actuarial data as suggested by Kendrick at column 1, lines 5 - 10.

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over NETG in view of Ruane, McDonald and further in view of USPN 5,983,200 issued to Benjamin Slotznick (hereinafter "Slotznick").

Regarding claim 9, NETG, Ruane or McDonald do not explicitly teach the customized greeting is an electronic greeting card.

Slotznick teaches the customized greeting is an electronic greeting card (see column 1, lines 38 - 42).

It would have been obvious to one of ordinary skill in the data processing art at the time of the present invention to combine teaching of the cited references because Slotznick's teaching of "customized greeting is an electronic greeting card" would have allowed NETG, Ruane and McDonald's system to reproduce information itself or in material objects, here and now, or in the future, at a point of sale, or when the

information originates either at the point of sale, or at a different place or at a different time or times as suggested by Slotznick at column 3, lines 7 -11.

Regarding claim 10, Slotznick teaches the customized greeting is a greeting card produced at an automated greeting card kiosk (see column 1, lines 39 – 45).

Claims 11, 17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over NETG in view of Ruane, McDonald and further in view of USPN 5,983,200 issued to Benjamin Slotznick (hereinafter "Slotznick").

Regarding claims 11, 17 and 20, NETG or Ruane do not explicitly teach the step of generating a customized calendar for the target individual.

Slotznick teaches the step of generating a customized calendar for the target individual (see Fig.5 step 95 and column 22, lines 23 – 28).

It would have been obvious to one of ordinary skill in the data processing art at the time of the present invention to combine teaching of the cited references because Slotznick's teaching of "the step of generating a customized calendar for the target individual" would have allowed NETG and Ruane's system to reproduce information itself or in material objects, here and now, or in the future, at a point of sale, or when the information originates either at the point of sale, or at a different place or at a different time or times as suggested by Slotznick at column 3, lines 7 -11.

(10) Response to Argument

1. Response to Appellant's Argument regarding claims 1, 14 and 18

(a) Specific limitations in independent claims 1, 14, and 18 are not described in the prior art relied on in the rejection.

(1) *The information provided by NETG does not comprise the age of first individual on a specific date but merely regurgitates a birthdate that was input in step (a) (page 12, paragraph 1).*

Examiner respectfully disagrees with the appellant. As required by section (a) of claim 1, NETG discloses an "input signal" which is the birthdate entered. In this case the birthdate entered is "August 30, 1955" as shown in the last Office Action.

(2) The information provided by NETG does not comprise the age of a first individual on a specific date (page 12, paragraph 1).

Examiner respectfully disagrees with the appellant. As required by section (b) of claim 1, and as shown on page 10 of NETG, when input signal "August 30, 1955" is enter , the system determines the age in days.

(3) This age information used by NETG does not comprise the age of a first individual on a specific date, ... Thus NETG does not disclose step (c) (page 13, paragraph 1).

Examiner respectfully disagrees with the appellant. As required by section (c) of claim 1 and as shown on page 10 of NETG, the system searches the database and displays "Your birthday is Tue 30-Aug-1955" which is the age –event information corresponding to said age. However, examiner wishes to state that this USC 103(a) rejection. Ruane in addition to NETG, discloses appellant claimed invention. Ruane also discloses "personalized calendar" which shows "on each day there's some notable achievement done by a person who is exactly as old as you are on that day. For example, tomorrow I'll be the same age Jack Kerouac was the day on the road was first published" (page 5). Ruane's idea shows a first and second person while NETG calculates ages based on the input signal in this combined invention.

(4) The O.A. does not describe an output signal in NETG that comprises age-event information (page 14, paragraph 1).

Examiner respectfully disagrees with the appellant. As required by section (d) of claim 1 and as declared in section ***(9) Grounds of Rejection*** above regarding claim 1(d) NETG discloses output signal. Ruane also discloses as shown in response to argument (a)(3) above an output signal that is "personalized calendar" which shows "on each day there's some notable achievement done by a person who is exactly as old as you are on that day".

(b) Features disclosed in one reference may not properly be combined with features disclosed in another reference to arrive at claims 1, 14, and 18 (page 18).

(I) Ruane is not analogous art to NETG and would have been known or considered by a person with ordinary skill in the art (page 18, paragraph 2).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Examiner agrees with the appellant that in Ruane's idea, "the protagonist proposes to develop a computer program that accepts a birthday as input, and provides a calendar that includes entries describing events that occurred in the lives of famous individuals when they were the same age as an individual with the birthday" (page 10, paragraph 1). Appellant also points out that NETG "provide as output events that came after a specific input date". One of ordinary skills will recognize that there is some teaching, suggestion, or motivation to combine these references. The motivation is that this combination "with the right equipment and business strategy, will sure make a fortune" as suggested by Ruane (page 5, paragraph 8).

Examiner has not describe any basis on which Ruane, a fictional article in an obscure literary journal, would logically have commended itself to an inventor's attention in the context of present invention, and no such basis appears to exist (page 19, paragraph 2).

Examiner recognizes that the work of Ruane is a fictional article; however, this was an ideal he first conceived in a fictional setting. Ruane discloses "personalized calendar" which shows "on each day there's some notable achievement done by a person who is exactly as old as you are on that day. For example, tomorrow I'll be the same age Jack Kerouac was the day on the road was first published". Ruane further discloses that "with the right equipment and business strategy, I will sure make a fortune". As disclosed by Ruane though this is a fiction, this idea could make a fortune using the right equipment and business strategy.

(II) No convincing motivation to combine NETG with Ruane is described in the reference or the knowledge generally available to one of ordinary skill in the art (page 20).

Examiner respectfully disagrees. Please refer to response to argument (b)(I) above. The motivation is that a "personalized calendar" which shows "on each day there's some notable achievement done by a person who is exactly as old as you are on that day" is produced. With the right equipment and business strategy, fortune will surely be made.

(III) NETG and Ruane are individually complete (page 22).

Though NETG and Ruane are individually complete, they can still be combined. This is shown as stated in response to argument (1)(a)(3) and (1)(b)(I)(II) above which is applicable herewith.

(IV) Ruane is not an invention (page 23).

Though describes a work of fiction, examiner submits that this was an idea that was first conceived by Ruane that was expressed in fictional work. Please refer to the response to (1)(b)(I) above which is applicable herewith.

2. Response to Appellant's Argument regarding claims 2 and 15

From the specification, it is thus clear that the "individual" of claims 2 and 15 is a person distinct from the "celebrity" (page 24).

Examiner submits that the claims are interpreted in light of the specification, limitation from the specification are not read into the claim, In re Van Guens 988 F.2d 1181, 26 USPQ2d 1057 (Fed.Cir 1993). It is reminded that Applicant cannot rely on the specification to impart to the claims limitations not recited therein. Such reliance is ineffective to define over the prior art. In re Lundberg, 244 F2d 543, 113 USPQ 530 (CCPA 1957); In re Winklans, 188 USPQ 129 (CCPA 1975). Applicant are further reminded of the clear difference between reading the claim in light of the specification as allowed by 35 U.S.C. 112, 6th paragraph, and by In re Donaldson 29 USPQ2rd, 1845, 16 F.3d 1189 (Fed. Cir, 1994), and reading limitations of the specification into the

claims In re Prater 415 F2d 1393, 162 USPQ 541 (CCPA 1969). Further, the Applicants always have the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified, In re Prater, 162 USPQ 541, 550-51 (CCPA1969). As declared in section ***(9) Grounds of Rejection*** above regarding claim 2 which is applicable herewith, Ruane discloses on page 5, paragraph 6: "I send you your own calendar. On each day there's some notable achievement done by a person who was exactly as old as you are on that day. For example tomorrow I'll be the same age Jack Kerouac was the day on the Road was first published"); from Ruane's disclosure, "I" is the first person and "Jack Kerouac" is the "celebrity" while his historical event is publishing "on the Road" as shown in claims 2 and 15.

3. Response to Appellant's Argument regarding claim 4 (page 25)

The date displayed on page 10 is the input birthdate, not "specific date" from claim 1 (page 25, paragraph 2).

Examiner respectfully disagrees. Claim 4 requires "wherein the output signal further comprises a date". Page 10 of NETG shows an output signal of "Your birthday is Tue 30-Aug-1955". Examiner submits that "30-Aug-1955" is date.

4. Response to Appellant's Argument regarding claims 21 and 22 (page 25)

Ruane does not teach the limitations of claims 21 and 22 (page 27, paragraph 1).

Examiner respectfully disagrees. Examiner addresses this argument as declared in section ***(9) Grounds of Rejection,*** Please refers to rejection of claims 21 and 22 that is applicable herewith.

5. Response to Appellant's Argument regarding claims 8, 16 and 19 (page 27)

Based on the definitions in the specification, it is clear that "Happy Anniversary" cannot be construed as age-event information (page 28, paragraph2).

Examiner submits that the claims are interpreted in light of the specification, limitation from the specification are not read into the claim, In re Van Guens 988 F.2d 1181, 26 USPQ2d 1057 (Fed.Cir 1993). It is reminded that Applicant cannot rely on the specification to impart to the claims limitations not recited therein. Such reliance is ineffective to define over the prior art. In re Lundberg, 244 F2d 543, 113 USPQ 530 (CCPA 1957); In re Winklans, 188 USPQ 129 (CCPA 1975). Applicant are further reminded of the clear difference between reading the claim in light of the specification as allowed by 35 U.S.C. 112, 6th paragraph, and by In re Donaldson 29 USPQ2rd, 1845, 16 F.3d 1189 (Fed. Cir, 1994), and reading limitations of the specification into the claims In re Prater 415 F2d 1393, 162 USPQ 541 (CCPA 1969). Further, the Applicants always have the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified, In re Prater, 162 USPQ 541, 550-51

(CCPA1969). As declared in section ***(9) Grounds of Rejection*** above regarding claims 8, 16 and 19, this limitation requires "the step of generating a customized greeting for said first individual, said greeting comprising age-event information". As shown in section ***(9) Grounds of Rejection*** above regarding claims 8, 16 and 19 above and also response to argument (1) that is applicable herewith. McDonald discloses the step of generating a customized greeting for said first individual, said greeting comprising age-event information as shown in column 8, lines 46 – 54). Examiner submits that "Happy Anniversary" as disclosed by McDonald is age-event information.

6. Response to Appellant's Argument regarding claim 12 (page 29)

It is clear that the information provided by McDonald, Fig. 9, does not conform to definition of age-event information from the specification or the claims (page 30, paragraph 2).

Examiner respectfully disagrees. Please refer to response to argument 5 above and also rejection as declared in section ***(9) Grounds of Rejection*** above regarding claim 12 that is applicable herewith. Examiner submits that characterized that McDonald, Fig. 9 does not conform to definition of age-event information as claims. Examiner agrees with the Appellant that Fig. 9 does not conform to definition of age-event information. However, as declared in section ***(9) Grounds of Rejection*** above regarding claim 12, Fig. 11 shows "age-event" information.\

7. Response to Appellant's Argument regarding claim 13 (page 31)

Although these data are related to age-event information, they do not themselves constitute age-event information, as would be required to meet the limitations of the claims (page 32, paragraph 1).

As rightly stated by the appellant that Kendrick discloses age-event information in this argument, the examiner agrees with the appellant. Examiner submits that Kendrick discloses in column 1, line 60 – column 2, line 4 "life-clock display for said first individual, wherein said life-clock display comprises a symbolic representation of the amount of life an individual has lived and the amount of life said first individual is expected to live before dying"

8. Response to Appellant's Argument regarding claims 11, 17, and 20 (page 33)

Slotznick does not teach the additional limitation of claims 11, 17 or 20 (page 34, paragraph 1).

Examiner respectfully disagrees with the appellant. As declared in section ***(9) Grounds of Rejection*** above regarding claims 11, 17 and 20 which is applicable herewith, Slotznick discloses in addition to Ruane and McDonald disclosed all the claim limitations.

9. Response to Appellant's Argument regarding claims 9 and 10 (page 35)

Appellant's only argument regarding claims 9 and 10 is that there is no motivation to combine the references (page 36, paragraph 1).

In response to appellant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). As declared in section ***(9) Grounds of Rejection*** above regarding claims 10 and 10 which is applicable herewith, Ruane, McDonald and Slotznick disclosed appellant's claimed invention. The motivation is that an electronic customized greeting cards can be dispensed in vending machine and kiosk. This is convenient for customers who can design, customized and personalized their greeting cards at their convenience with minimal fees.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Examiner Fred Ehichioya

May 30, 2006

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